

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 1430-93  
C# M#

CROWE et al

Group Art Unit: 1816

Patent No. 5,876,961

Examiner: Eisenschenk, C.

Issued: March 2, 1999

Date: September 5, 2003

Title: PRODUCTION OF ANTIBODIES



Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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SEP 9 2003

OFFICE OF PETITIONS

Sir:

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF  
MAINTENANCE FEE UNDER 1.378**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

Correspondence Address Indication Form Attached.

**Fees are attached as calculated below:**

Total effective claims after amendment	0	minus highest number		
previously paid for	20	(at least 20) =	0	x \$ 18.00

\$ 0.00

Independent claims after amendment	0	minus highest number		
previously paid for	3	(at least 3) =	0	x \$ 84.00

\$ 0.00

If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper)

\$ 0.00

Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$410.00/2 months; \$930.00/3 months)

\$ 0.00

Terminal disclaimer enclosed, add \$ 110.00

\$ 0.00

<input type="checkbox"/> First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$750.00)	\$	0.00
<input type="checkbox"/> Please enter the previously unentered , filed		
<input type="checkbox"/> Submission attached		

**Subtotal** \$ 0.00

If "small entity," then enter half (1/2) of subtotal and subtract

-\$ 0.00

Applicant claims "small entity" status.  Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee (\$180.00)

\$ 0.00

Assignment Recording Fee (\$40.00)

\$ 0.00

Other: Maintenance Fee Under 1.20(e) - \$890 and Surcharge Under 1.20(i)(2) - \$1640

2530.00

**TOTAL FEE ENCLOSED** \$ 2530.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
MJW:tat

NIXON & VANDERHYE P.C.  
By Atty: Mary J. Wilson, Reg. No. 32,955

Signature: Mary J. Wilson



#29

54

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

CROWE et al

Atty. Ref.: 1430-93; Confirmation No.

Patent. No. 5,876,961

Group: 1816

Issued: March 2, 1999

Examiner: Eisenschenk, C.

For: PRODUCTION OF ANTIBODIES

\* \* \* \* \*

September 5, 2003

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SEP 9 2003

OFFICE OF PETITIONS

Sir:

**PETITION TO ACCEPT UNINTENTIONALLY  
DELAYED PAYMENT OF MAINTENANCE FEE UNDER 1.378**

The Director is hereby requested to accept the payment of the maintenance fee due in the above on September 2, 2002. The delay in payment of that fee was unintentional as evidenced by the attached Declaration of Mr. Guy Nash.

This Petition is being filed within 24 months after the six-month grace period as provided in 1.362(e).

Accompanying this Petition are:

- (1) the required maintenance fee 1.20(e); and
- (2) the required surcharge (1.20)(i)(2).

Adjustment date: 09/12/2003 AKELLEY 00000012 5876961

09/09/2003 AWONDAF1 00000107 5876961  
01 FC:1599 -2530.00 OP

1640.00 OP  
890.00 OP

09/12/2003 AKELLEY 00000012 5876961

01 FC:1558  
02 FC:1551

772286

CROWE et al  
Patent. No. 5,876,961  
September 5, 2003

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: Mary J. Wilson  
Mary J. Wilson  
Reg. No. 32,955

MJW:tat  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

Please type a plus sign (+) inside this box →  +

PTO/SB/121 (10-00)

Approved for use through 10/31/2002. OMB 0651-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# CORRESPONDENCE ADDRESS INDICATION FORM

## Address to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450



Direct all correspondence to:

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 Customer Number: **23117**

 Place Customer  
Number Bar  
Label Here →

SEP 9 2003

OR

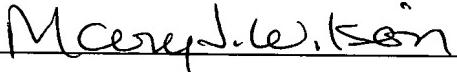
Type Customer Number here

OFFICE OF PETITIONS

 Request for Customer Number (PTO/SB/125) submitted herewith.

## in the following listed application(s) or patent(s):

Patent Number (if appropriate)	Application Number	Patent Date (if appropriate)	U.S. Filing Date
5,876,961	5,876,961	MAR 2 1999	March 2, 1999

Typed or Printed Name	Mary J. Wilson	(check one)
Signature		<input type="checkbox"/> Applicant or Patentee
Date	September 5, 2003	<input type="checkbox"/> Assignee of record of the entire interest. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)
Address of signer:	1100 North Glebe Road, 8 <sup>th</sup> Floor Arlington, VA 22202	<input checked="" type="checkbox"/> Attorney or Agent of record
		32,955 (Reg. No.)

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.\*

 \*Total of  1 forms are submitted.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS: SEND TO: Assistant Commissioner of Patents, Box CN, Washington, DC 20231.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent of

CROWE et al

Atty. Ref.: 1430-93

Patent No. 5,876,961

Issued: March 2, 1999

**PRODUCTION OF ANTIBODIES**

\* \* \* \* \*

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**  
**SEP 9 2003**  
**OFFICE OF PETITIONS**

**DECLARATION OF GUY C. NASH**

I, Guy C. Nash, hereby declare as follows:

1. I am Patent Counsel of GlaxoSmithKline, formerly Glaxo Wellcome Inc., the owner and assignee of record of U.S. Patent 5,876,961 ("the '961 patent").

2. The '961 patent was unintentionally allowed to lapse due to a failure to timely pay the required maintenance fee. The circumstances surrounding this unintentional lapse are detailed in the following paragraphs.

3. On or about November 5, 2001, I generated a report summarizing a year 2001 review of GlaxoSmithKline patent cases for which I am responsible.

4. This report identified the general title of the invention and GlaxoSmithKline case number associated with each title. This report also reflected recommendations and decisions as to the further prosecution and/or maintenance of each case number/title.

5. Included as part of this review were the patent cases associated with GlaxoSmithKline case number PA1260, which included the '961 patent.

6. As shown in the report attached hereto at Tab A (redacted to remove confidential information not relevant to the PA1260 cases), a decision was made to classify the PA1260 cases as "defensive" type cases.

7. The report at Tab A also shows that another case (other than those associated with case number PA1260) were to be abandoned.

8. Pursuant to GlaxoSmithKline's policies for its "defensive" type cases, patent protection was to be maintained in European, Japan and the United States. Attached at Tab B is an internal GlaxoSmithKline document headed "Pharmaceuticals – Proposed GlaxoSmithKline Filing Lists" (redacted to remove confidential information not relevant to the PA1260 cases) that reflects this policy.

9. Such patent protection and continued maintenance was obtained pursuant to GlaxoSmithKline instructions concerning the European and Japanese patent cases associated with case number PA1260, as reflected in the GlaxoSmithKline docketing reports attached hereto at Tab C.

10. In keeping with GlaxoSmithKline policy, such continued maintenance was to also be obtained with respect to the U.S. patent associated with case number PA1260, i.e., the '961 patent.

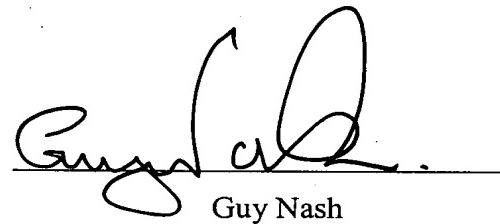
11. Due to an error in communication, however, instructions were sent to GlaxoSmithKline's U.S. patent counsel, Nixon & Vanderhye P.C., instructing that that '961 patent be allowed to lapse. Due to an inadvertent error within our formalities department, case PA1260 was included in a list of US patents and applications intended for abandonment. This list together with instructions was sent to GlaxoSmithKline's U.S. patent counsel, Nixon & Vanderhye P.C., instructing that the '961 patent be allowed to lapse.

12. It was never my intention, nor was it the intention of GlaxoSmithKline, to allow U.S. Patent 5,876,961 to lapse.

13. Now that we have become aware of the erroneous instructions to Nixon & Vanderhye P.C. that resulted in the failure to timely pay maintenance fees and subsequent lapse of the '961 patent, we have instructed Nixon & Vanderhye P.C. to file a Petition to accept the unintentionally delayed payment of the maintenance fees and to reinstate the '961 patent, because the lapsing of the '961 patent was unintentional.

14. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true: and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 29<sup>th</sup> July 2003



Guy Nash

Guy Nash

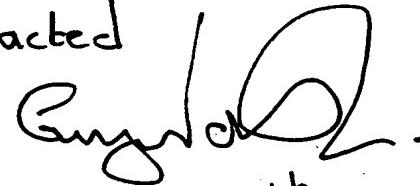
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Case No.	Title	Recommendation	Decision
	<i>Redacted 27<sup>th</sup> July 2003 Guy Nash</i>		
PA1260	PROCESS FOR PREPARING HUMAN MONOCLONALS	Commercial product	Defensive
PA1282	CRE/LOX-BACULOVIRUS EXPRESSION SYSTEM	Abandon all patent filings	Abandon all patent filings
	<i>Redacted 27<sup>th</sup> July 2003 Guy Nash</i>		
PG3635	Use of Butyrate for increased Protein Production	Abandon all patent filings	Defensive
	<i>Redacted. 27<sup>th</sup> July 2003 Guy Nash</i>		
PK3259	Methods for the Synthesis of Fmoc Protected Amines		
PK3521	Multipurpose Robotic Workstation		
PK3570	Split Multi-Well Plate and Methods		
PK4177	Apparatus and Methods for Evaluating the quality of a Combinatorial Library of Compounds		
PK4179	Position triggered Dispenser and Methods		
PK4181	Syringe Assay System and Method		
PK4183	Malaria Peptides and Vaccines		
PK4203	Peptides and Compounds that bind to the IL-1 Receptor		
PK4204	Peptides and Compounds that bind to ELAM-1		
PK4206	Compounds and Peptides and Bind to the Erythropoietin Receptor		
PK4207	Photoable Compounds and Methods for their Use		
PK4208	Novel Inhibitors of Metalloproteases, Pharmaceutical Compositions comprising same, and Methods of their Use		
PK4211	Novel Peptide Dimers as Agonists of the Erythropoietin Receptor and Associated Methods of Synthesis and Use		

**PHARMACEUTICALS – PROPOSED GSK FILING LISTS**

	12 Month Stage	30 Month Stage (PCT National Phase)	EP Grant (EP National Phase)
<b>DEFENSIVE</b>			
	PCT (all States)	EPO: all states but no extension countries Japan USA	Belgium France Germany Italy Spain UK

Redacted



25<sup>th</sup> July 2003.

C

PCMMaster v3.03.02 - SmithKline Beecham - [Patent]																																																																																																																										
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Docket Number Country Case Type Relation Type Filing Type Filing Number	PA1260 European Patent Convention Regular Original Filing European Patent Case	Attorney Agent Client/Division Applicant Previous Owner	Guy C. Nash Direct Filing Pharmaceuticals The Wellcome Foundation Ltd.																																																																																																																							
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(C)

PCMaster v3.03.02 - SmithKline Beecham - [Patent]

Docket Number	PA1260	Attorney	Guy C. Nash
Country	Japan	Agent	Suzuye & Suzuye
Case Type	Regular	Class / Division	Pharmaceuticals
Relation Type	Original Filing	Applicant	The Wellcome Foundation Ltd.
Filing Type	Patent Cooperation Treaty	Previous Owner	
Filing Number			

PROCESS FOR PREPARING HUMAN MONOCLONALS

Licenses	Office No	Related Id	Title	Last and Region	Priority	Applicants	Ex. Files	Inventors
Filing Date	Related Party Info	None	Actions	Description	Expenses			
Status	Filed		First Filing Date	15JL1991				
Sub Status	Published		Sub Status Date	30MR1995				
Parent Country	Patent Cooperation Treaty	PCT.GB92.01282	Parent Filing Date	14JL1992				
Parent Number			Parent Grant Date					
Total Claims		1	Ind. Claims/Designs	1				
Application Number		50245793	Application Date	14JL1992				
Publication Number		50288295	Grant Date					
Program	Core		Publication Date	30MR1995				
Completion Type			Expiration Date	14JL2012				
			Last Date					
			Next Tax Date					

Entered: 29NO2002 Updated: 19MR2003 11:41 AM By: WAM

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◀ ▶ ⌂ ⌃ 17/02